UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

EXAMINER
STORM, DONALD L

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/814,905	BARASH, KENNETH
		Examiner	**Art Unit**	
		Donald L. Storm	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *March 30, 2004 through August 2, 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 10-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 10-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Priority

1.   The Applicant's claim for the benefit of prior-filed applications under 35 U.S.C. 119(e) and under 35 U.S.C. 120 is acknowledged.

Information Disclosure Statement

2.   The information disclosure statement filed August 2, 2004 fails to comply with 37 CFR 1.98(b), which requires identification of all patents, publications, or other information submitted for consideration by the Office. Because its defects appear to be listing errors, as missing or inaccurate number, author, title, date, or pages, the Examiner has changed citations on the disclosure statement to correspond to the date and inventor. If the changes and/or additions are acceptable to the Applicant, no action is required. Further submissions should comply with 37 CFR 1.97 and 37 CFR 1.98 as of the date of their submission.

Specification

3.   The specification is objected to because the nonprovisional application number 09/828,087 should not be called a "continuation" of the provisional application since an application that claims benefit of a provisional application is a nonprovisional application of a provisional application, not a continuation, division, or continuation-in-part of the provisional application. A nonprovisional application may claim the benefit of a provisional application under 35 U.S.C. 119(e). It is recommended that Applicant does not claim the benefit to a provisional application under 35 U.S.C. 120 since such a claim could have the effect of reducing the patent term, as the term of a patent issuing from such an application may be measured from the filing date of the provisional application. See MPEP 201.07 and 201.11.

4.   The specification is objected to under 37 CFR § 1.78(a)(2)(i) because references to nonprovisional applications should be brought up to date if any of the applications have been abandoned or matured into patents, and as appropriate, the patent numbers should be included. Including filing dates and current titles of the applications is encouraged. See MPEP § 201.11 and § 608.01 SPECIFICATION. Correction should be made throughout the disclosure, for example: At page 1, lines 4-6, as amended by PRELIMINARY AMENDMENT, filed March 30, 2004, should the identification of "Application Serial No. 09/828,087" include --, now US Patent 6,738,740--?

Claim Informalities

5.   The form of the claims does not follow Office practice. While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with "I (or we) claim", "The invention claimed is", or the equivalent. The Applicant is encouraged to insert a desired introduction before claim 1. If, at the time of allowance, appropriate terminology is not present, it is inserted by the technical staff. See MPEP § 608.01(m).

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Perrone

7.   Claims 1, 3, 10, 12, 13, 15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Perrone [US Patent 6,157,705].

8.   Regarding claim 1, <u>Perrone</u> [at column 13, lines 36-55] describes an embodiment for interactively gathering information recognizable as a whole to one versed in the art by explicitly describing the following elements:

a remote device for establishing a voice connection with said (voice recognition) system over a communications network [at column 5, lines 18-27, as an end user computer and telephone, that are remote from a server, and IVR system, and a speech recognizer, connecting on a voice communication channel to an IVR system coupled to a speech recognizer];

a processor for generating and transmitting a plurality of verbal questions interactively to a user [at column 13, lines 38-63, as an expert system generates questions for verbalization and sends audio to ask the questions of a user and flexibly directs asking and gathering the user's response];

the user is associated with the remote device [at column 5, lines 18-20, as the end use has the computer and telephone];

a textual document [at column 9, lines 42-52, as the web page having text elements and graphical elements defined in HTML language code];

the interaction is to complete the textual document [at column 12, lines 46-61, as the user's voice phrases fill in appropriate fields of the web page];

a verbal document [at column 14, lines 12-18, as a digital file representing a microphone signal when a user speaks];

a storage device for storing user's responses to provide the verbal document [at column 14, lines 12-18, as memory stores a digital file representing a microphone signal when a user speaks];

the responses are verbal responses to the questions [at column 13, lines 61-64, as responses to questions in the form of speech by the user];

the processor converts the verbal document into the textual document [at column 14,

lines 54-65, as the speech recognizer executes recognition processes on the digital voice file and

the IVR application associates recognized words and phrases with the Web page].

9.   Regarding claim 3, <u>Perrone</u> also describes:

the processor generates supporting documents in accord with the verbal document [at

column 14, lines 54-62, as server retrieves and transmits Web pages to the browser associated with

words and phrases recognized from the digital voice file].

10.   Regarding claim 10, <u>Perrone</u> also describes:

a device for transmitting the textual document to the user for confirmation or execution [at

column 12, lines 48-61, as the Web application fills in the fields of the web page with the

recognized phrases of the user and executes the request].

11.   Regarding claim 12, <u>Perrone</u> also describes:

the network being one of a telephone network, the Internet, (and other) [at column 14,

lines 66-67, as the voice communication channel is established as Internet telephony].

12.   Claims 13, 15, and 17 set forth a method with limitations comprising the functionality

associated with using the system recited in claims 1, 3, and 12, respectively. Because <u>Gallacher</u>

and <u>Norris</u> describe and make obvious the similar limitations as indicated there, these claims thus

are unpatentable accordingly.

Claim Rejections - 35 USC § 103

13.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Gallacher and Norris

14.   Claims 1, 3-6, 10-13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallacher et al. [US Patent 6,021,400] in view of Norris [US Patent 5,870,721].

15.   Regarding claim 1, Gallacher and Norris describe and make obvious the claimed limitations as a whole recognizable to one versed in the art because Gallacher [at abstract] describes an embodiment for interactively gathering information and explicitly describes the following elements:

a device for establishing a connection with a system [at column 2, lines 42-48, as an ATM establishes a conference with a computer located within the offices of a financial institution which owns the ATM];

the device is remote [at column 10, lines 48-51, as the ATM and the customer are remote from the bank's central office];

the connection is voice over a communications network [at column 1, lines 49-54, as the ATM and computer conference is by telephone channel];

a processor [at column 12, lines 11-22, as software, the ATM, and the computer to implement the invention];

generating and transmitting a plurality of questions interactively to a user associated with the remote device [at column 9, lines 8-46, as the processing generates presents an inquiry to a customer by the ATM during acceptance of data from the customer until the customer satisfies the inquiry];

a textual document [at column 10, lines 34-37, as the customer's file of alphanumeric characters];

the purpose is to complete the textual document [at column 10, lines 35-37, as sounds

transcribed as characters are inserted into fields in the customer's file];

a verbal document [at column 9, lines 62-63, as a collection of data packets holding

digitized speech];

a storage device for storing user's verbal responses to the questions to provide the verbal

document [at column 9, lines 60-65, as ATM storage holding digitized speech of the customer's

spoken items which represent answers to a question as the collection of packets].

Although Gallacher describes the video conference between the bank and the ATM

customer, Gallacher does not explicitly describe that the questions are verbal. Gallacher [at

column 11] also describes that the packets of digitized speech are transcribed into the

alphanumeric characters of the customer's file. However, Gallacher does not explicitly describe a

voice recognition system such that the processor converts the speech packets into the customer's

file.

Norris [at abstract] also describes gathering information from a user remote from a

computer for completing a loan transaction. Norris describes:

a device for establishing a connection with a voice recognition system over a

communications network [at column 2, lines 7-12, as an apparatus enables the exchange of

information using voice recognition using a communications link];

the device is remote [at column 8, lines 63-65, as the equipment for the borrower is remote

from a central processor];

it is a voice connection [at column 5, lines 35-50, as the processor receives words spoken

by the caller over the communications link];

a processor for generating and transmitting questions interactively to a user associated with

the remote device [at column 5, line 64-column 6, line 7, as the processor asks the caller questions

during information exchange between the processor and the caller with the telephone];

the questions are verbal [at column 5, lines 40-42, as the processor speaks with a voice];

the questions are to complete a document [at column 4, lines 53-65, as a electronic file of documents to be printed];

the document is textual [at column 5, lines 56-57, as the information is alphabet-based];

the processor converts responses into the textual document [at column 5, lines 37-57, as voice recognition using the processor obtains the alphabet-based information];

the responses are verbal [at column 5, lines 38-40, as the voice recognition interprets words spoken by the caller].

Gallacher [at column 5, lines 11-12] describes an embodiment in which the information is gathered without human assistance; however, Gallacher's gathering of voice information relies on transcription by a transcriber. To the extent that Gallacher's transcriber is not necessarily automatic speech recognition, Norris' concept of voice recognition technology by the processor could be used to transcribe Gallacher's speech data packets and enter the alphanumeric characters into the customer's file. Because of the similarities between Gallacher and Norris, it would have been obvious to one of ordinary skill in the art of speech recognition at the time of invention to include Norris' concept of voice recognition technology by the processor for Gallacher's transcriber because that would have reduced Gallacher's use of human intervention into the process further, and it would further have combined Gallacher's goal of producing the text document, but allowing the user to enter information by speaking it.

16.   Regarding claim 3, Norris also describes:

generate supporting documents in accord with the document [at column 5, lines 56-66, as obtain the credit report for the caller's alphabet based information].

Because Gallacher's verbal document is used to derive the textual document, it would have been obvious that supporting documents obtained in accordance with the textual document are necessarily also in accordance with the verbal document.

17.   Regarding claim 4, Norris also describes:

the textual document is a credit investigation document [at column 5, lines 56-66, as the

caller's alphabet based information is used to obtain a credit report];

the processor generates supporting documents for the credit investigation document [at

column 5, lines 56-66, as the processor obtains the credit report for the caller's alphabet based

information via the controller].

18.   Regarding claim 5, Gallacher also describes:

the processor transmits the credit investigation document to a third party [at column 4,

lines 29- 30, as the ATM transmits the completed form to the lending institution];

the processor transmits the supporting documents [at column 5, lines 10-14, as the

invention relays the loan application and the credit report].

Norris also describes:

the documents are for underwriting [at column 2, lines 1-2, as loan application processing

includes underwriting].

19.   Regarding claim 6, Gallacher also describes:

the processor transmits the credit investigation document to a third party [at column 4,

lines 29- 30, as the ATM transmits the completed form to the lending institution];

the processor transmits the supporting documents [at column 5, lines 10-14, as the

invention relays the loan application and the credit report].

Norris also describes:

the documents are for credit approval [at column 2, lines 1-12, as loan application

processing includes underwriting, meaning approval of the loan].

20.   Regarding claim 10, <u>Norris</u> also describes:

a device for transmitting the textual document to the user for execution or (other) [at

column 4, lines 57-65, as a printer or facsimile for sending the documentation to the applicant to

be signed].

21.   Regarding claim 11, <u>Gallacher</u> also describes:

the documentation is an application or form [at column 4, lines 61-62, as a file representing

an application is transmitted].

22.   Regarding claim 12, <u>Norris</u> also describes:

the network is one of telephone network (and others) [at column 4, lines 22-23, as the

communications link is a telephone line].

23.   Claims 13, 15, 16, and 17 set forth a method with limitations comprising the functionality

associated with using the system recited in claims 1, 3, 11, and 12, respectively. Because

<u>Gallacher</u> and <u>Norris</u> describe and make obvious the similar limitations as indicated there, these

claims thus are unpatentable accordingly.

Gallacher and Norris and Stentiford

24.   Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over <u>Gallacher</u>

et al. [US Patent 6,021,400] in view of <u>Norris</u> [US Patent 5,870,721] and <u>Stentiford</u> [US Patent

5,384,701].

25.   Regarding claim 2, <u>Gallacher</u> and <u>Norris</u> describe and make obvious the conversion to text

of stored speech as indicated for claim 1; however, neither <u>Gallacher</u> nor <u>Norris</u> explicitly

describes that the text result may be in another language.

Stentiford [at abstract] describes language translation from speech to text in another language, and describes:

a verbal document [at column 5, lines 31-32, as the utterance stored in a buffer to be rerecognized];

a processor converts it into a textual document in another language [at column 2, lines 23-60, as speech signals to a speech recognizer to be translated from a first language to a second language are identified in the input language, translated, and output as text in a second language].

Stentiford [at column 7, lines 41-50] points out only one application of speech input to text in a different language, namely, as a simple implementation for every day business correspondence. To one of ordinary skill in the art of business communications at the time of invention, it would have been obvious to add Stentiford's concept of language translation to Gallacher's or Norris's systems of preparing loan applications for underwriting because communications would be possible from a person speaking and reading one language when applying for the loan to a qualifier or underwriter speaking and reading a different language.

26.   Claim 14 sets forth a method with limitations comprising the functionality associated with using the system recited in claim 2. Because Gallacher, Norris, and Stentiford describe and make obvious the similar limitations as indicated there, this claim thus is unpatentable accordingly.

Gallacher and Norris and Zandi
27.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gallacher et al. [US Patent 6,021,400] in view of Norris [US Patent 5,870,721] and Zandi [US Patent 5,966,699].

28.   Regarding claim 7, Gallacher also describe:

the processor transmits the credit investigation document to a third party [at column 4, lines 29- 30, as the ATM transmits the completed form to the lending institution];

the processor transmits the supporting documents [at column 5, lines 10-14, as the

invention relays the loan application and the credit report].

Norris also describes:

the documents are for underwriting [at column 2, lines 1-2, as loan application processing

includes underwriting];

the user associated with the remote device [at column 5, line 64-column 6, line 7, as the

caller with the telephone].

However, neither Gallacher nor Norris explicitly describes transmitting the documents to a

plurality of third parties to bid on the underwriting.

Like Gallacher and Norris, Zandi [at column 3, lines 56-65] also describes applying for a

loan from a computer connected by a communication link to a lender's computer. Zandi also

describes:

the processor transmitting the documents to a plurality of third parties to bid on the

underwriting [at column 7, lines 12-38, as BMS residing on the server transmits a complete

electronic loan application for approval and downloads available loans to lender computers to

submit loan bids for the borrower's loan];

the processor notifying a third party with the best bid and said user of said party with the

best bid [at column 7, lines 15-30, as BMS residing on the server notifies both the lender whose

bid has been accepted and the borrower that the bid has been accepted].

Zandi [at column 1, lines 57-60] points out that artisans have known to contact several

lenders to establish prices for a loan. Thus, it would have been obvious to one of ordinary skill in

the art of loan brokering at the time of invention to include Zandi's concept of sending loan

documents to a plurality of lenders through a server using Gallacher and Norris's documents and

server because the borrower is more likely to obtain a loan at more favorable terms than using

traditional ways (Zandi, column 3, lines 56-66).

Double Patenting

29.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is

appropriate where the conflicting claims are not identical, but at least one examined application

claim is not patentably distinct from the reference claim(s) because the examined application

claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g.,

In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re*

Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164

USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be

used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground, AND provided the conflicting application or patent is shown to be commonly owned with

this application or claims an invention made as a result of activities undertaken within the scope of

a joint research agreement. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

30.   Claims 1-7 and 10-12 rejected on the ground of nonstatutory, obviousness-type double

patenting as being unpatentable over claims 1-10 of U.S. Patent 6,738,740. Although the

conflicting claims are not identical, they are not patentably distinct from each other because a

person of ordinary skill in the art would conclude that the invention defined in the claims in issue

would have been an obvious variation of the invention defined in the claims in the patent.

Independent claim 1, and dependent claims 2-7 and 10-12, of this application are not

patentably distinct from claims 1-10 of U.S. Patent 6,738,740 because the claims are set forth

including obviously similar phrases.

However, claim 1, and by dependency claims 2-7 and 10-12, of this application do not

explicitly include U.S. Patent 6,738,740's claimed limitations that the storage device is operable to

store an incomplete verbal document and that the processor generates and transmits remaining

unanswered questions to the user in order to complete the verbal document, as recited in its claim

1, and by dependency claims 2-10.

It would have been obvious to one of ordinary skill in the art of computerized speech

recognition at the time that the invention was made that claim limitations in U.S. Patent 6,738,740

claims differ from those in this application only by functions that can be eliminated if the effect of

the additional functions is unneeded or undesired. If the functionality provided by the additional

limitations were not desired, it would have been obvious to eliminate it, and so achieve the

advantage of simplifying the processing.

Similarly, it would have been obvious that the additional limitations provided by the

dependent claims 2-10 of U.S. Patent 6,738,740 should not have been included if their added

functions were not desired because their elimination would further simplify processing.

31.   Claims 1 and 4-7 are rejected on the ground of nonstatutory, obviousness-type double

patenting as being unpatentable over claims 11-15 of U.S. Patent 6,738,740. Although the

conflicting claims are not identical, they are not patentably distinct from each other because a

person of ordinary skill in the art would conclude that the invention defined in the claims in issue

would have been an obvious variation of the invention defined in the claims in the patent.

Independent claim 1, and dependent claims 4-7, of this application are not patentably

distinct from claims 11-15 of U.S. Patent 6,738,740 because the claims are set forth including

obviously similar phrases.

However, claim 1, and by dependency claims 4-7, of this application do not explicitly include U.S. Patent 6,738,740's claimed limitations that the processor is operable to transmit a portion of the textual document to a third party for verification of confirmation, as recited in its claim 11, and by dependency claims 12-15.

However, claims 5-7 of this application do not explicitly include U.S. Patent 6,738,740's claimed limitations that the textual document is a credit investigation document and the processor is operable to generate supporting documents for the credit investigation document, as recited in its claim 12.

It would have been obvious to one of ordinary skill in the art of computerized speech recognition at the time that the invention was made that claim limitations in U.S. Patent 6,738,740 claims differ from those in this application only by functions that can be eliminated if the effect of the additional functions is unneeded or undesired. If the functionality provided by the additional limitations were not desired, it would have been obvious to eliminate it, and so achieve the advantage of simplifying the processing.

Similarly, it would have been obvious that the additional limitations provided by the dependent claims 12-15 of U.S. Patent 6,738,740 should not have been included if their added functions were not desired because their elimination would further simplify processing.

32.   Claims 13-17 are rejected on the ground of nonstatutory, obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent 6,738,740. Although the conflicting claims are not identical, they are not patentably distinct from each other because a person of ordinary skill in the art would conclude that the invention defined in the claims in issue would have been an obvious variation of the invention defined in the claims in the patent.

Independent claim 13, and dependent claims 14-17, of this application are not patentably distinct from claims 1-10 of U.S. Patent 6,738,740 because the claims are set forth including

obviously similar phrases to describe the functionality provided by the system of claims 1-3, 9,
and 10 of U.S. Patent 6,738,740.

However, claim 13, and by dependency claims 14-17, of this application do not explicitly
include U.S. Patent 6,738,740's claimed limitations that the storage device is operable to store an
incomplete verbal document and that the processor generates and transmits remaining unanswered
questions to the user in order to complete the verbal document, as recited in its claim 1, and by
dependency claims 2-10.

It would have been obvious to one of ordinary skill in the art of computerized speech
recognition at the time that the invention was made that claim limitations in U.S. Patent 6,738,740
claims differ from the functionality claimed in the claims in this application only by functions that
can be eliminated if the effect of the additional functions is unneeded or undesired. If the
functionality provided by the additional limitations were not desired, it would have been obvious
to eliminate it, and so achieve the advantage of simplifying the processing.

Similarly, it would have been obvious that the additional limitations provided by the
dependent claims 2-10 of U.S. Patent 6,738,740 should not have been included if their added
functions were not desired because their elimination would further simplify processing.

33.   Claim 13 is rejected on the ground of nonstatutory, obviousness-type double patenting as
being unpatentable over claims 16-20 of U.S. Patent 6,738,740. Although the conflicting claims
are not identical, they are not patentably distinct from each other because a person of ordinary skill
in the art would conclude that the invention defined in the claims in issue would have been an
obvious variation of the invention defined in the claims in the patent.

Independent claim 13 of this application is not patentably distinct from claims 16-20 of
U.S. Patent 6,738,740 because the claims are set forth including obviously similar phrases.

However, claim 13 of this application does not explicitly include U.S. Patent 6,738,740's
claimed limitations of generating and transmitting unanswered questions to the user in order to

complete the verbal document if it is determined that an incomplete verbal document has been stored as recited in its claim 16, and by dependency claims 17-20.

It would have been obvious to one of ordinary skill in the art of computerized speech recognition at the time that the invention was made that claim limitations in U.S. Patent 6,738,740 claims differ from those in this application only by functions that can be eliminated if the effect of the additional functions is unneeded or undesired. If the functionality provided by the additional limitations were not desired, it would have been obvious to eliminate it, and so achieve the advantage of simplifying the processing.

Similarly, it would have been obvious that the additional limitations provided by the dependent claims 17-20 of U.S. Patent 6,738,740 should not have been included if their added functions were not desired because their elimination would further simplify processing.

Conclusion

34.   The following references here made of record are considered pertinent to applicant's disclosure:

Masson et al. [US Patent 5,007,078] describes recording a caller's speech that provided

  informational replies during an exchange of messages with an attendant and transcription

  of the recording.

Nishi et al. [US Patent 6,144,940] both records a user's spoken responses and buffers them before

  input to a speech to text converter in the environment of completing a loan application.

35.   This is a continuation of applicant's earlier Application No. 09/828,087. All claims are drawn to the same invention that was claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy

as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,

event will the statutory period for reply expire later than SIX MONTHS from the mailing date of

this final action.

36.   Any response to this action may be mailed to:
                 Mail Stop AF
                 Commissioner for Patents
                 P.O. Box 1450
                 Alexandria, VA 22313-1450

or faxed to:

                 (571) 273-8300, (please mark "EXPEDITED PROCEDURE"; for formal
                 communications and for informal or draft communications, additionally marked
                 "INFORMAL" or "DRAFT")

Some patent correspondence and/or fees may be submitted using the Office's electronic
filing system (EFS). See the Office's Internet Web site for additional information, for
example http:// www. USPTO. gov/ ebc/ ebc_faqs. htm.

Some patent correspondence may delivered by hand or delivery services, other than the
USPS, addressed as follows and brought to U.S. Patent and Trademark Office, Customer
Service Window, **Mail Stop AF**, Randolph Building, 401 Dulany Street, Alexandria, VA
22314

***************** IMPORTANT NOTICE ***********************

37.   The Examiner handling this application, who was assigned to Art Unit 2654, is assigned to

DIVISION 2626 as a result of consolidation in Technology Center 2600. Please include the new

Division in the caption or heading of any communication. Your cooperation in this matter will

assist in the timely processing of the submission and is appreciated by the Office.

38.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Donald L. Storm, of Division 2626, whose telephone number is

(571) 272-7614. The examiner can normally be reached on weekdays between 7:00 AM and 3:30

PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions

relating to an application or questions on the Private PAIR system should be directed to the

Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 between the hours

of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. For general

information about the PAIR system, see http://pair-direct.uspto.gov. If you would like assistance

from a USPTO Customer Service Representative or access to the automated information system,

call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 28, 2007

/Donald L. Storm/
_____
Primary Patent Examiner
Division 2626